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tion that the engineer is to some extent watchful, which prevents the more general passing of statutes requiring a constant lookout on the track ahead, and keeps the running of trains, without this precaution, from being, in truth, negligence *per se*. It would, therefore, seem no great hardship, in spite of the difficult question of fact which must consequently be sent to the jury, to require of engineers, as a legal duty, that reasonable care under the circumstances, which it is assumed they ordinarily use.

ADVERSE POSSESSION. — A recent Alabama case is of interest as illustrating the nature of adverse possession. The plaintiff's ancestor, in 1867, purchased land upon an execution sale, without obtaining a release of dower from the execution debtor's wife. The former owner, however, remained in possession until his death in 1870, and thereafter the widow and children occupied the land, the widow paying the taxes, until 1887, when the widow died. The plaintiff then sued the children in ejectment, and recovered judgment. The court held that the possession of the widow being under her statutory right of quarantine which allowed her to remain in possession until dower was assigned, was neither a continuation of her husband's possession, nor adverse to the plaintiff's legal title. *Robinson v. Allison*, 27 So. Rep. 461 (Ala.).

Undoubtedly the possession of the widow was not adverse to the plaintiff's claim, if it was in pursuance of her statutory right of quarantine. For in that case the fact that her possession was lawful barred the plaintiff's right to bring ejectment and prevented the running of the statute. The rule would serve to work a hardship upon the children in such a case, but that is a necessary consequence. The court went farther, however, and held that no assertion of ownership on the part of the widow could make her possession adverse, as she would nevertheless be secure in her right to possession until the dower was set out. Yet this does not seem to be sound. In this country a lessee may disaffirm orally and thereafter hold adversely to his landlord's title, and on principle there seems to be no good reason why a widow may not do the same as to her statutory right of quarantine. Obviously a claim of fee by the widow must be open, and notorious, and in a case like the one under discussion, it must be clearly proved. But if the fact were actually established, her adverse possession for the statutory period should allow her to transmit the fee to her heirs. A similar result might possibly be reached in another way. The fact that the widow and children continued in possession might be said to indicate that the children claimed their father's tortious fee by descent subject to the widow's right to dower in that tortious estate. Then the children should be protected after the running of the statutory period. They could even tack their adverse possession to that of their father if that were necessary. Yet to adopt this latter view would be to put a strained interpretation on the facts. On the ground, however, that the widow did actually claim a fee — and the report of the case indicates that there was evidence to that effect — the decision in the principal case would seem to be questionable. That the widow's possession might have been lawful, had she not claimed the fee, should not, it seems, utterly deprive her of all power of holding adversely.